

ASSEMBLY BILL

No. 1398

**Introduced by Committee on Natural Resources (Chesbro (Chair),
Grove (Vice Chair), Bigelow, Garcia, Muratsuchi, Patterson,
Skinner, Stone, and Williams)**

March 11, 2013

An act to amend Sections 42649.1 and 42649.3 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1398, as introduced, Committee on Natural Resources. Solid waste recycling.

The California Integrated Waste Management Act of 1989 requires a business, which is defined as a commercial or public entity, that generates more than 4 cubic yards of commercial solid waste per week or is a multifamily residential dwelling of 5 units or more, to arrange for recycling services. Existing law also requires jurisdictions to implement a commercial solid waste recycling program meeting specified elements. Existing law defines commercial solid waste by reference to a specified regulation.

This bill instead would define commercial solid waste to include all types of solid waste generated by a store, office, or other commercial or public entity source, including a business or a multifamily dwelling of 5 or more units, thereby imposing a state-mandated local program by imposing new requirements upon local jurisdictions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 42649.1 of the Public Resources Code
2 is amended to read:

3 42649.1. For purposes of this chapter, the following terms
4 ~~mean the following~~ shall apply:

5 (a) “Business” means a commercial or public entity, including,
6 but not limited to, a firm, partnership, proprietorship, joint stock
7 company, corporation, or association that is organized as a
8 for-profit or nonprofit entity, or a multifamily residential dwelling.

9 (b) “Commercial solid waste” ~~has the same meaning as defined~~
10 ~~in Section 17225.12 of Title 14 of the California Code of~~
11 ~~Regulations~~ includes all types of solid waste generated by a store,
12 office, or other commercial or public entity source, including a
13 business or a multifamily dwelling of five or more units.

14 (c) “Commercial waste generator” means a business subject to
15 subdivision (a) of Section 42649.2.

16 (d) “Self-hauler” means a business that hauls its own waste
17 rather than contracting for that service.

18 SEC. 2. Section 42649.3 of the Public Resources Code is
19 amended to read:

20 42649.3. (a) On and after July 1, 2012, each jurisdiction shall
21 implement a commercial solid waste recycling program appropriate
22 for that jurisdiction designed to divert commercial solid waste
23 from businesses subject to Section ~~42649.2~~ 42649.2, whether or
24 not the jurisdiction has met the requirements of Section 41780.

25 (b) If a jurisdiction already has a commercial solid waste
26 recycling program as one of its diversion elements that meets the
27 requirements of this section, it shall not be required to implement
28 a new or expanded commercial solid waste recycling program.

29 (c) The commercial solid waste recycling program shall be
30 directed at a commercial waste generator, as defined in subdivision
31 ~~(b)~~ (c) of Section 42649.1, and may include, but is not limited to,
32 any of the following:

1 (1) Implementing a mandatory commercial solid waste recycling
2 policy or ordinance.

3 (2) Requiring a mandatory commercial solid waste recycling
4 program through a franchise contract or agreement.

5 (3) Requiring all commercial solid waste to go through either
6 a source separated or mixed processing system that diverts material
7 from disposal.

8 (d) The commercial solid waste recycling program shall include
9 education, outreach to, and monitoring of, businesses. A
10 jurisdiction shall notify a business if the business is not in
11 compliance with Section 42649.2.

12 (e) The commercial solid waste recycling program may include
13 enforcement provisions that are consistent with a jurisdiction's
14 authority, including a structure for fines and penalties.

15 (f) The commercial solid waste recycling program may include
16 certification requirements for self-haulers.

17 (g) The department shall review a jurisdiction's compliance
18 with this section as part of the department's review required by
19 Section 41825. Each jurisdiction shall report the progress achieved
20 in implementing its commercial recycling program, including
21 education, outreach, identification, and monitoring, and if
22 applicable, enforcement efforts, by providing updates in the annual
23 report required by Section 41821.

24 (h) The department may also review whether a jurisdiction is
25 in compliance with this section at any time that the department
26 receives information that a jurisdiction has not implemented, or is
27 not making a good faith effort to implement, a commercial
28 recycling program.

29 (i) During its review pursuant to subdivision (g) or (h), the
30 department shall determine whether each jurisdiction has made a
31 good faith effort to implement its selected commercial recycling
32 program. For purposes of this section, "good faith effort" means
33 all reasonable and feasible efforts by a jurisdiction to implement
34 its commercial recycling program. During its review, the
35 department may include, but is not limited to, the following factors
36 in its evaluation of a jurisdiction's good faith effort:

37 (1) The extent to which businesses have complied with Section
38 42649.2, including information on the amount of disposal that is
39 being diverted from the businesses, if available, and on the number
40 of businesses that are subscribing to service.

1 (2) The recovery rate of the commercial waste from the material
2 recovery facilities that are utilized by the businesses, all
3 information, methods, and calculations, and any additional
4 performance data, as requested by the department from the material
5 recovery facilities pursuant to Section 18809.4 of Title 14 of the
6 California Code of Regulations.

7 (3) The extent to which the jurisdiction is conducting education
8 and outreach to businesses.

9 (4) The extent to which the jurisdiction is monitoring businesses,
10 and notifying those businesses that are out of compliance.

11 (5) The availability of markets for collected recyclables.

12 (6) Budgetary constraints.

13 (7) In the case of a rural jurisdiction, the effects of small
14 geographic size, low population density, or distance to markets.

15 SEC. 3. No reimbursement is required by this act pursuant to
16 Section 6 of Article XIII B of the California Constitution because
17 a local agency or school district has the authority to levy service
18 charges, fees, or assessments sufficient to pay for the program or
19 level of service mandated by this act, within the meaning of Section
20 17556 of the Government Code.